

STATE CONTROLLER'S OFFICE
PERSONNEL/PAYROLL SERVICES DIVISION
P. O. BOX 942850
Sacramento, CA 94250-5878

DATE: February 27, 2008

PERSONNEL LETTER #08-001

TO: All Agencies/Campuses in the Uniform State Payroll System

FROM: Don Scheppmann, Chief
Personnel/Payroll Services Division

RE: **ADDITIONAL INFORMATION REGARDING THE NEW NONRESIDENT ALIEN
FEDERAL TAX WITHHOLDING PROCEDURES**

This Personnel Letter provides additional information on nonresident alien (NRA) federal tax withholding procedures.

In December 2006, the State Controller's Office (SCO) released Payroll Letters #06-029 for California State University (CSU) campuses and #06-030 for civil service agencies announcing changes to the federal tax calculations for NRA employees and plans to create a new Employment History (EH) data field to indicate NRA employees who meet IRS criteria. Due to the amount of time projected to create the EH NRA field, the changes will not be made to the current EH system. Instead, SCO will keep in place the interim procedures for collecting NRA employee information as outlined in the above payroll letters.

Although the EH system modification will not occur, the Employee Action Request (EAR), Form STD. 686 (Rev. 07/2007) and the CSU Student Payroll Action Request (SPAR), Form STD. 457 (Rev. 12/2007) have been modified to include an NRA field. The revised forms include a box titled "NONRESIDENT ALIEN" which is located in the Federal and State Allowances section. The box should be checked by employees who are an NRA per IRS Notice 2005-76 and to be used by departments/campuses to identify these employees to SCO. The NRA field is informational only and cannot be key entered when the EAR and SPAR are processed.

In addition, attached is a listing of the most frequently asked questions regarding the NRA process and an updated NRA transmittal form.

If you have any questions, please contact Jeanna Bowe at (916) 322-3899 or jbowe@sco.ca.gov.

DS:JB:PMAB

Attachment

Frequently Asked Questions Regarding Nonresident Alien Federal Tax Procedures

1. How do I determine if an employee is a nonresident alien (NRA)?

Per Internal Revenue Service (IRS) Publication 519 a person who is not a U.S. citizen is considered a nonresident alien unless they meet either the Green Card Test or the Substantial Presence Test. Information on who is considered a nonresident alien is included in IRS Publication 519, "U.S. Tax Guide for Aliens" located at <http://www.irs.gov/publications/p519/ch01.html> and IRS Notice 2005-76 "Withholding on Wages of Nonresident Alien Employees Performing Services Within the United States" located at http://www.irs.gov/irb/2005-46_IRB/ar10.html

2. Should departments include resident aliens on the listing submitted to SCO?

No. Only nonresident aliens who are subject to the new IRS rules should be included on the listing. Visit the above links to determine the difference between nonresident aliens and resident aliens.

3. Who can I talk to if I cannot understand the guidelines written by the IRS?

If you need assistance interpreting the IRS guidelines and determining which employees are considered nonresident aliens, we suggest you contact your legal office for guidance.

4. What if an employee designated as a nonresident alien becomes a citizen or resident alien?

If an employee has notified you that he/she has become a citizen or resident alien and provided you with the supporting documentation, you should complete the following steps:

- A. If the employee has completed an STD. 686 EAR (Rev. 07/2007) or STD. 457 SPAR (Rev. 12/2007) with a check in the nonresident alien box, have the employee complete a new EAR or SPAR form without indicating the nonresident alien box.
- B. Remove the employee from SCO's nonresident alien process using the attached form.
- C. Submit a Form STD. 674 to refund any additional taxes that were deducted in error. See Payroll Procedures Manual Section H155 for form completion instructions.
- D. Update the employee's employment history record. For civil service departments: Refer to the PAM Manual Item 545, Oath/Non-Citizen for more information on citizenship changes.

For CSU campuses: Refer to the PIMS Manual Item 825, Noncitizen Status Code for information on how to document citizenship status changes.

5. How do I refund taxes withheld in error from this process?

Frequently Asked Questions Regarding Nonresident Alien Federal Tax Procedures

If an employee was identified as a nonresident alien subject to the new IRS procedures in error, the extra tax withheld can be refunded. Submit a completed Form STD. 674 to SCO and indicate in the remarks section “NRA Error – Refund Extra Federal Tax Withholding”. Please be sure to submit the attached form to remove the employee from the NRA process and avoid further incorrect deductions the following month. Please see the Payroll Procedures Manual Section H 155 for instructions on completing the Form STD. 674.

6. What federal marital status and number of exemptions should nonresident alien employees be claiming on their EAR or SPAR forms?

Per IRS Notice 2005-76, nonresident aliens who are subject to the new IRS procedures must claim single for their federal marital status, only one allowance and cannot claim an exemption from withholdings. An employee may claim more than one allowance only if they are a resident of Canada, Mexico or South Korea. See the IRS notice for further information at http://www.irs.gov/irb/2005-46_IRB/ar10.html.

7. What if an employee is not claiming the above currently?

An employee must adhere to the rules specified above per IRS Notice 2005-76. If an employee is currently claiming something different than above, have her/him submit a new EAR or SPAR form. Please do not accept an EAR or SPAR from a nonresident alien with an incorrect federal marital status or number of exemptions. Departments/campuses may not correct the federal marital status or number of allowances without an EAR or SPAR document completed by the employee.

8. Why does an employee’s additional federal tax deduction amount differ each month?

The federal tax recalculation process looks at the previous month’s federal taxable gross, performs a series of recalculations and determines how much an employee owes per the new IRS procedures. The new federal tax amount is then compared to the amount of federal taxes the employee has already had withheld for the pay period. A one-time code 099 deduction is taken for the amount of federal taxes the employee owes. The difference in the code 099 deduction amount for each month may be due to a difference in the federal taxable gross or a difference in the amount of federal taxes originally withheld.

9. Why do some employees have no deductions taken at all?

No additional deductions have been taken because enough federal tax was withheld in the original payment to meet the criteria of the IRS procedures.

10. Why doesn’t the State Controller's Office identify these employees?

Frequently Asked Questions Regarding Nonresident Alien Federal Tax Procedures

Nonresident aliens subject to new IRS procedures cannot be identified by the State Controller's Office since the information required to determine if an employee is a nonresident alien is held by the appointing agency. Agencies/campuses must verify an employee has nonresident alien status and verify the employee's country of origin to determine if the IRS procedures apply.

11. How do I notify SCO of employee changes to the NRA process?

To remove or add an employee from the NRA process, please complete the attached new nonresident alien change form indicating the employee's SSN, name and whether the employee is to be added or deleted from the process. Please have these changes submitted to SCO no later than the 10th of each month to ensure the change is reflected before the program is run that month. This form can be submitted by a secure fax to (916) 322-8137 or by mail to the following address:

State Controller's Office
Personnel/Payroll Services Division
Program Management and Analysis Bureau
P.O. Box 942850
Sacramento, CA 94250-5878
Attn: Jeanna Bowe

Please do not submit email requests to add or delete a NRA employee from the process. Email is not a secure method of transmitting social security numbers.

12. How do I notify SCO if an NRA employee included in the NRA process has had a change to his/her SSN or if the SSN originally provided was incorrect?

If the employees SSN has changed or needs to be corrected please take the following steps:

- A. Submit a 105 transaction to SCO for processing along with a copy of the Social Security Card.
- B. Submit the attached form and indicate employee's name, the old or incorrect SSN and indicate that the record should be deleted. On another line of the form include the employee's name, correct SSN and indicate that this record should be added. Submit this form to SCO per the instructions above.

Authorizing Signature*: _____

*Must be a person authorized to sign Employment History documents.

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